

### **REMARKS**

This Application has been carefully reviewed in light of the Office Action dated December 2, 2008 ("*Office Action*"). At the time of the *Office Action*, Claims 1-20 were pending and rejected in the Application. Applicants have amended Claims 1, 3, 5, 11, and 13. Applicants cancel Claims 7, 19, and 20. Applicants submit that no new matter is added by these amendments. As described below, Applicants believe all claims to be allowable over the cited references. Therefore, Applicants respectfully request reconsideration and full allowance of all pending claims.

#### **Section 101 Rejection**

The Examiner rejects Claims 13-16 under 35 U.S.C. § 101 because the claimed invention is directed to nonstatutory subject matter.

Independent Claim 13, as amended, is directed to a system for automatically deploying program units to a cluster of networked servers that comprises "an application server cluster comprising a set of a plurality of application servers." The system also includes "a network deployment server in communication with the application server cluster." Both the "plurality of application servers" and the "network deployment servers" recited computer-related elements and constitute "machines." Accordingly, the system of Claim 13 is "tied to a particular machine." Therefore, the system recited in Claim 13 constitutes statutory subject matter under 35 U.S.C. § 101 according to the applicable case law.

Applicants respectfully request that the rejection of Claims 13-16 under 35 U.S.C. § 101 be withdrawn.

#### **Section 112 Rejection**

The Examiner rejects Claim 4 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the Examiner states that "the one or more application servers" recited in line 2 of Claim 4 lacks antecedent basis. Although Applicants respectfully disagree (since Claim 4 depends from Claim 3, which recites "automatically retrieving information related to the one or more application servers in the

cluster”), Applicants submit that the amendments to Claims 1 and 3 as submitted in this response render the rejection of Claim 4 under Section 112 moot.

Applicants respectfully request that the rejection of Claim 4 under 35 U.S.C. § 112, second paragraph be withdrawn.

### **Section 103 Rejections**

The Examiner rejects Claims 1-20 under 35 U.S.C. § 103(a) as being unpatentable over “BEA Web Logic Portal Deployment Guide,” Version 4.4, May 2002 (“*BEA*”) in view of Chapter 5 Assembling and Deploying Enterprise Applications.

Independent Claim 1 of the present Application, as amended, recites:

A method of automatically deploying program units to a cluster of networked servers, comprising:

assembling one or more program units for deploying to a cluster of one or more application servers;

retrieving type information related to the cluster of networked servers from a deployment server, the type information identifying a type of application server installed on one or more nodes to which to deploy the program units;

automatically, and without user input, generating a script to use a specific utility of the application server for generation of deployment descriptors from the information retrieved from the deployment server, the deployment descriptors suitable for the type of application server; and

deploying the one or more program units to the cluster of the one or more application servers using at least the deployment descriptor.

Applicants respectfully submit that *BEA* does not disclose either expressly or inherently the elements recited in Claim 1.

For example, *BEA* does not disclose, teach, or suggest “retrieving information . . . identifying a type of application server installed on one or more nodes to which to deploy the program units” and “automatically, and without user input, generating a script to use a specific utility of the application server for generation of deployment descriptors from the information retrieved from the deployment server, the deployment descriptors suitable for the type of application server,” as recited in Claim 1.

*BEA* is a user guide providing instructions to users and describing the steps necessary for deploying applications. With regard to the creation of deployment descriptors, *BEA* merely discloses that “[t]o create deployment descriptors for your enterprise application,” a user must copy reference files, modify *application.xml*, and modify *application-config.xml*. (*BEA*, page 5-3). To copy the reference files, *BEA* discloses that the user must “create a directory named META-INF” and identifies two files that must be copied to the user’s META-INF directory. (*BEA*, page 5-4). To modify the “*application.xml*” file, *BEA* discloses that the user must use a text editor to modify the application name, the declarations for web applications, the declarations for EJBs, and the declarations of security roles. (*BEA*, page 5-4). Finally, to modify the “*application-config.xml*” file, *BEA* discloses that the user must “use a text editor to remove declarations for MBeans that configure services you do not use.” (*BEA*, page 5-7). Thus, *BEA* requires that the user create the deployment descriptors. Although *BEA* suggests that a user “use scripts to start servers” since the commands for starting a server are long, the mere suggestion that a user should use a script to *start* a server is not the same as “automatically, and without user input, generating a script to use a specific utility of the application server for generation of deployment descriptors from the type information retrieved from the deployment server, the deployment descriptors suitable for the type of application server,” as recited in Claim 1.

For at least these reasons, Applicants respectfully request reconsideration and allowance of Claim 1, together with Claims 2-10, and 17-19 that depend on Claim 1. For analogous reasons, Applicants also request reconsideration and allowance of independent Claims 11 and 13, together with Claims 12 and 20 that depends on Claim 11 and Claims 14-16 that depend on Claim 13.

### New Claims 21-23

New Claims 21-23 have been added and are fully supported by the original specification. No new matter has been added. New Claims 21, 22, and 23 depend upon independent Claims 1, 11, and 13, respectively. Claims 21-23 are not obvious over *BEA* because Claims 21-23 include the limitations of their respective independent claims and

add additional elements that further distinguish the art. For example, Claim 21 recites that "after the automated generation of the deployment descriptors, receiving a user customization of the deployment descriptors" and "merging the user customization with the automatically generated deployment descriptors to update the automatically generated deployment descriptors according to the user customization." Claims 22-23 recite certain substantially similar limitations.

This combination of features is not disclosed, taught, or suggested in the prior art of record. To the contrary, *BEA* merely discloses that user can create deployment descriptors for a particular application by "copy[ing] reference files, modify[ing] application.xml, and modify[ing] application-config.xml." (*BEA*, page 5-3). The user "create[s] a directory named META-INF" and identifies two files that must be copied to the user's META-INF directory. (*BEA*, page 5-4). According to *BEA*, the user must use a text editor to modify the application name, the declarations for web applications, the declarations for EJBs, and the declarations of security roles. (*BEA*, page 5-4). Finally, to modify the "application-config.xml" file, *BEA* discloses that the user must "use a text editor to remove declarations for MBeans that configure services you do not use." (*BEA*, page 5-7). Thus, *BEA* requires that the user create the deployment descriptors. There is no disclosure in *BEA* of "after the automated generation of the deployment descriptors, receiving a user customization of the deployment descriptors," as recited in Claims 21-23. Additionally, there is no disclosure in *BEA* of "merging the user customization with the automatically generated deployment descriptors to update the automatically generated deployment descriptors according to the user customization," as recited in Claims 21-23.

For at least these reasons, Applicants respectfully submit that new Claims 21-23 are allowable over the prior art.

**No Waiver**

Additionally, Applicants have merely discussed example distinctions from the references cited by the Examiner. Other distinctions may exist, and Applicants reserve the right to discuss these additional distinctions in a later Response or on Appeal, if appropriate. By not responding to additional statements made by the Examiner, Applicants do not acquiesce to the Examiner's additional statements. The example distinctions discussed by Applicants are sufficient to overcome the Examiner's rejections.

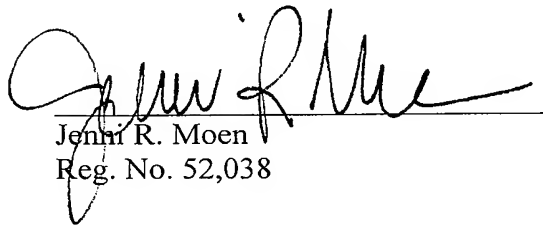
**CONCLUSION**

Applicants have made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicants respectfully request full allowance of all pending claims.

If the Examiner feels that a telephone conference would advance prosecution of this Application in any manner, the Examiner is invited to contact Jenni R. Moen, Attorney for Applicants, at the Examiner's convenience at (214) 415-4820.

Applicants believe that no fees are due. However, the Commissioner is hereby authorized to charge any fees or credit any overpayment to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,  
BAKER BOTTS L.L.P.  
Attorneys for Applicants



Jenni R. Moen  
Reg. No. 52,038

Date: March 2, 2009

Correspondence Address:

at Customer No. **05073**